

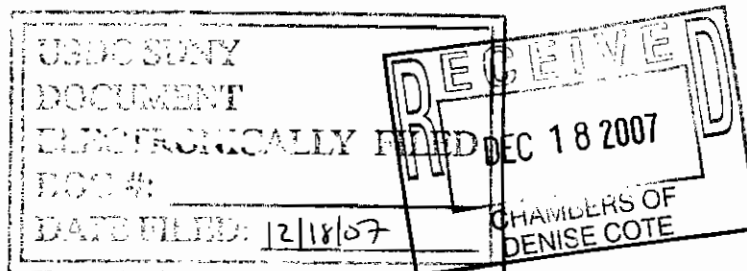
KAUFMAN & KAHN, LLP

MEMO ENDORSED

December 17, 2007

BY HAND DELIVERY

Hon. Denise L. Cote
United States District Court, SDNY
500 Pearl Street, Room 1040
New York, NY 10007



Re: DB Structured Products, Inc. v. Lender Ltd.
(Case No. 07 CV 4119 (DLC))

To the Honorable Judge Cote:

We represent defendant Lender Ltd. in the above case. Although we timely provided Lender's Rule 26(b) Disclosures and responses to the disclosure demands of plaintiff DB Structured Products, Inc. ("DBSP"). DBSP has failed to provide any of the documents set forth in its Rule 26(b) Disclosure or respond to Lender's disclosure demands.

We served plaintiff's counsel with Lender Ltd.'s First Requests to DBSP for Production of Documents on or about October 9, 2007. Plaintiff's failure to respond has minimized any possibility of meaningful settlement discussions to be mediated by Magistrate Judge Fox. Our mediation has now been adjourned twice; we are awaiting chambers' confirmation that we will meet on January 29, 2008. Meanwhile, the discovery deadline, set forth in your Order dated August 10, 2007, is presently scheduled for February 1, 2008.

I understand from speaking with attorneys for defendants in some of the other consolidated cases that DBSP has not provided disclosure responses to any of them, either, including First Capital.

We respectfully request that Your Honor compel plaintiff to respond to outstanding discovery requests, or that you schedule a pre-motion conference for a motion to compel, and that in the interim the events in the Scheduling Order be adjourned accordingly.

The parties shall meet and confer to resolve this dispute. Any unresolved issue shall be addressed at a 11⁰⁰ am
cc. (by email): 12/20/07 conference call. Defense counsel shall place the call to the Court.
John Doherty, Esq. - counsel to DBSP
Peter Fazio, Esq. - counsel to First Capital
Mr. Jim Wickham - Lender Ltd.

Respectfully submitted,

Mark S. Kaufman
Mark S. Kaufman

Denise Cote
December 18, 2007